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09/888,582	06/26/2001	Brian S. Kelly	044321-0257	9519

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EDELL, SHAPIRO, FINNAN & LYTLE, LLC  
1901 RESEARCH BOULEVARD  
SUITE 400  
ROCKVILLE, MD 20850

EXAMINER

HARRIS, STEPHANIE N

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/888,582

Applicant(s)

KELLY ET AL.

Examiner

Stephanie N. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44-47 is/are allowed.
- 6) ☒ Claim(s) 1,2,6,8,10-20,23, 38-43, and 26 is/are rejected.
- 7) ☒ Claim(s) 3-5,7,9,21,22,24,25 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "seat portion connector" and "lower frame connector" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the terms "seat portion connector" and "lower frame connector".

### ***Claim Objections***

Claim 41 is objected to because of the following informalities: Claim 41 refers back to itself. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 16-26 and 38-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "bends" in line 5. There is insufficient antecedent basis for this limitation in the claim. This term appears throughout claims 16-26.

Regarding claim 38, the terms "seat portion connector" and "lower frame connector" are unclear. It is unclear from the specification and the drawings where these elements appear in the invention or how they work in conjunction with the invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 10, 8, 11, 12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Riback (USPN 5451095).

Regarding claim 1, Riback discloses a frame assembly for a child bouncer seat. The frame assembly includes a disassembled configuration and an assembled configuration as seen in Figures 1, 2, 7, and 8.

An upper frame (22) has left and right ends. A left and right hub assembly, as seen in Figure 6, which includes a first receptacle (33) coupled to one of the left and right ends and a second receptacle (41).

A lower frame (26) includes left and right members (40) that have forward and rearward ends (43, 44). The forward ends (44) are connected to the second receptacles (41) when the frame assembly is in the assembled configuration. One of the forward ends is disconnected from the second receptacle when the frame assembly is in the disassembled configuration as seen in Figures 7 and 8.

A pivot, formed by the rearward ends and receptacle (45), connects the rearward ends when the frame assembly is in the disassembled configuration (Col. 6, lines 25-29). The left and right members are rotated about the pivot, as the pivot remains fixed, to allow at least the left and right members to be positioned between a first and second angular position relative to the other (Col. 6, lines 20-37). When the frame assembly is in the assembled configuration, the forward ends being connected to the second receptacles prevents the left and right members from rotating about the pivot as seen in Figures 9 and 10.

Regarding claim 6, the frame assembly is adapted for use on a support surface. The hub assemblies are rigid relative to the lower frame as seen in Figure 1. A portion of the left and right members (40) are elevated from the support surface to be resiliently displaceable relative to the hub assemblies as seen in Figure 2. The elevated portion of the lower frame (26) defines a flexural member that can provide a bouncing motion when the frame assembly is in the assembled configuration.

Regarding claim 8, the lower frame (26) pivots between at least one unfolded position in which the lower frame is angularly displaced from the upper frame and a folded position in which the lower frame lies substantially co-planar with the upper frame (Col. 6, lines 20-37).

Regarding claim 10, the left and right hub assemblies are disposed adjacent to the support surface as seen in Figure 1.

Regarding claim 11, an intermediate frame (27) is coupled to the upper frame (22) via the hub assembly as seen in Figure 1.

Regarding claim 12, the intermediate frame is pivotable between a first position adjacent the upper frame and a second position angularly spaced from the upper frame (Col. 7, lines 45-52).

Regarding claim 15, the upper frame (22) can be used as a seat support and is adapted to receive a seating surface (23) as seen in Figure 1. The left and right ends of the upper frame extend forwardly and outwardly from the seating area and the left and right members of the of the lower frame (26) extend rearwardly and inwardly from the second receptacles as seen in Figure 1-6.

Claims 16-20 and 23 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Miga, Jr. et al. (USPN 5460430).

Regarding claim 16, Miga discloses a first frame (34) that includes a seat back portion with left and right ends. A bend is formed between the seat back portion and each of the left and right ends as seen in Figure 6. A second frame (32) with left and

right portions is pivotally coupled to the first frame (34) by engagement with the bends via pivot assembly (36).

The second frame (32) is rotatable about the bends between a deployed position where the second frame is angularly spaced from the first frame as seen in Figure 4, and a folded position in which the second frame is substantially coplanar with the first frame as seen in Figure 5. The bends are serpentine bends at the top of the first frame (34). The first frame (34) is a unitary frame as seen in Figure 6. The child seat can be used as a child bouncer seat.

Regarding claim 19, the sides of the second frame (32) are formed by a single piece of wire form material and the first frame (34) is formed by a single piece of wire form material as seen in Figure 6.

Regarding claim 20, the seat back portion defines a plane substantially corresponding to a seating surface. The serpentine bends include a first, second, and third section. The second section extends forwardly from the seat back portion plane and is disposed between the first and third sections at the top of the first frame (16). The first and third sections extend approximately parallel to the seat back portion plane located by element (14). The first and second sections support the second frame (22) as a cantilever in the deployed position by use of the eyelet (42). The second frame is rotated about the second section when the second frame (22) is in the folded position as seen in Figure 10.

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Regarding claim 23, a ground engaging base (22) is coupled to the left and right ends of the first frame (34), via second frame (32) and pivot assemblies (36, 14) as seen in Figure 6.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riback (USPN 5451095) in view of Huang (USPN 5507564).

Riback has been described above. Riback shows all of the teachings of the claimed invention but fails to show the use of hub assemblies with gear surfaces.

Regarding claims 13 and 14, Huang discloses the hub assemblies include a first and second housing. The first housing includes a first gear surface (14), a button (40), and the first receptacle shown by element 11, as seen in Figure 3. The second housing includes a second gear surface (33) and a second receptacle shown by element (30), as seen in Figure 3. The first and second gear surfaces are circular in shape and include radially extending teeth. The gear teeth are engageable with each of the first and second gear surfaces. The button engages the gear via a spring (45). The button and the gear can be displaceable relative to the first and second housings to disengage



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the gear from one of the first and second gear surfaces so that the first housing is rotatable relative to the second housing.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the hub assemblies of Riback with the hub assemblies with gear surfaces, as shown by Huang, in order to provide controlled adjustment of the back of the baby bouncer to different angles.

### ***Allowable Subject Matter***

Claims 3, 4, 5, 7, 9, 37, 21, 22, 24, 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 38-43 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 44-47 are allowed.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-

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305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

August 25, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600